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10/075,262	02/15/2002	David Landsberger	F0110	9407

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EXAMINER

FITZGERALD, JOHN P

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)	
	10/075,262	LANDSBERGER ET AL.	
	Examiner John P Fitzgerald	Art Unit 3637	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<b>Period for Reply</b>			
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>			
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b>			
1) <input type="checkbox"/> Responsive to communication(s) filed on _____ .			
2a) <input type="checkbox"/> This action is <b>FINAL</b> .                    2b) <input checked="" type="checkbox"/> This action is non-final.			
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
<b>Disposition of Claims</b>			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-19</u> is/are pending in the application.			
4a) Of the above claim(s) _____ is/are withdrawn from consideration.			
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.			
6) <input checked="" type="checkbox"/> Claim(s) <u>1-19</u> is/are rejected.			
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.			
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
<b>Application Papers</b>			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>15 February 2002</u> is/are: a) <input checked="" type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).			
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.			
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
<b>Priority under 35 U.S.C. §§ 119 and 120</b>			
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).			
a) <input type="checkbox"/> All    b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____ . 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.			
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
<b>Attachment(s)</b>			
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> .		6) <input type="checkbox"/> Other: _____ .	

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the longitudinal supporting members" in line 17. There is insufficient antecedent basis for this limitation in the claim. Claim 10 recites the limitation "integral protrusions" in line 10. There is insufficient antecedent basis for this limitation in the claim. Claim 17 recites the limitation "said step portions" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 18 recites the limitation "planar shelf supporting portions" in line 4. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

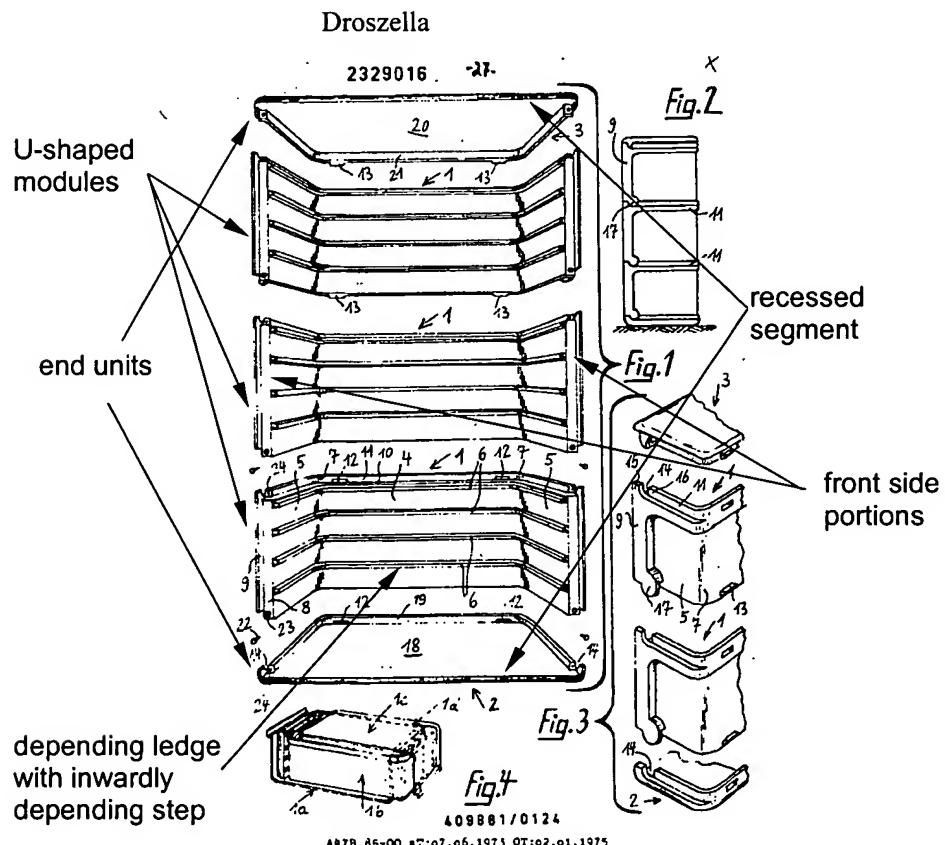
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. As best understood, claims 1, 4, 6, 7, 12 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella and Jourdain. DE 2329016 to Droszella discloses a modular cabinet assembly (Figs. 1-11), comprising: a pair of unitary housing end

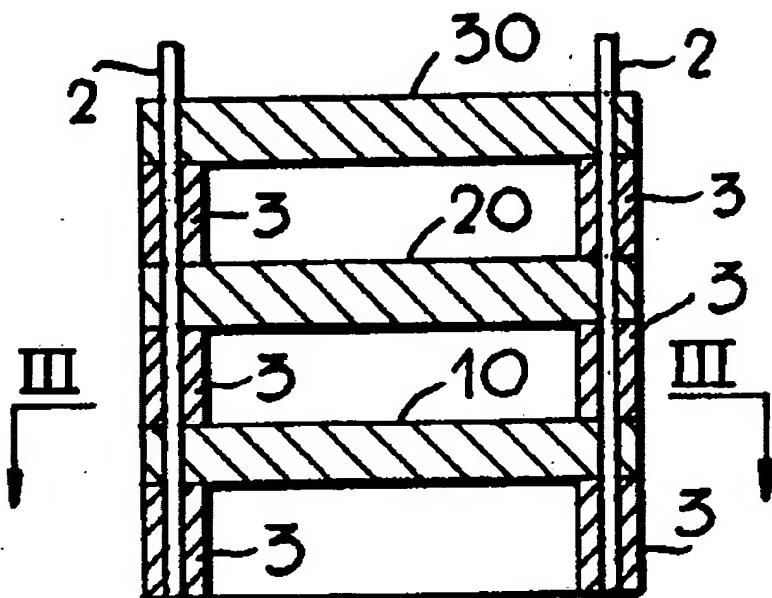
units (18, 20) arranged in an inverted spaced apart relation to each other, each end unit having a base bounded by a front, rear, first and second sides terminating at a common peripheral edge separating the interior and exterior surfaces of the end unit, the peripheral edge having a recessed segment (see Figure 1 below) extending along the front side; at least one unitary U-shaped housing module (1) interposed between the end units and having a rear side, a first side, a second side and a pair of front side portions depending inwardly from the first and second sides of the housing module, each front side portion terminating at a substantially vertical edge, the sides of the housing module terminating at peripheral edges thereof, a lower inwardly depending ledge; a door (38) pivotably attached to the front sides of the housing end units, and a plurality of connecting members (22) providing substantial alignment of the modules; a plurality of ribs extending longitudinally from the outer surfaces of the first and second sides of each of the U-shaped housing module (Fig. 5) (similarly recited in claim 4); wherein in a horizontal orientation of the modular cabinet in which the bases of the end units are positioned substantially vertically the ribs function as support feet for supporting the modular cabinet assembly on a support surface (similarly recited in claim 6); wherein the lower inwardly depending ledge of the U-shaped housing module further comprises an inwardly depending step for supporting a shelf when the storage assembly is supported on a surface in a vertical orientation (as recited in claim 7) and further comprising of an arrangement for maintaining the door in a closed position (as recited in claim 19). DE 2329016 to Droszella does not expressly disclose a modular cabinet wherein each base further having a plurality of elongated supporting members with guiding apertures passing therethrough; each unitary U-shaped housing module further having a plurality of columns each having a longitudinal guiding channel passing therethrough; and wherein the

longitudinal/elongated supporting members of the end units are substantially aligned with the respective columns of the module, so that the guiding apertures and the guiding channels form a continuous air-tight passage extending through the entire assembly to receive the connecting members; and wherein the supporting members are positioned at each corner of the respective end unit extending outwardly from the inner surface thereof, each column is positioned at a respective corner of the U-shaped housing module and extend from the lower inwardly depending ledge along the inner surfaces of the first and second sides of the module. Jourdain teaches a cabinet (Figs. 1-4) having a plurality of elongated support members and/or columns (3) with guiding apertures/channels passing therethrough, and end unit (30) having a longitudinal guiding channel passing therethrough, the support members and/or columns located at the four corners of the modular cabinet (Fig. 3) and wherein the apertures/channels are substantially aligned to receive connecting members (2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ supporting members and/or columns with guiding channels/apertures therethrough to receive fasteners, as taught by Jourdain, modifying the modular cabinet disclosed by DE 2329016 to Droszella, thus preventing displacement of the end units and the module laterally in relation to each other (Jourdain: col. 2, lines 14-16). In specific regards to claims 4 and 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the ribs on the U-shaped housing module to the housing end units of the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950). Further regarding claims 4 and 6, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to orient the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain in a vertical, horizontal, or any desired orientation so desired. In specific regards to claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the supporting members and the columns to any particular location of the end units and the U-shaped housing module of the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950). In specific regards to "air tight passages," it is considered well within the ordinary skill level to provide "air tight" features in a cabinet, depending upon the design choice and intended use of the cabinet, for example, as in the instant case, in a laboratory.



Jourdain  
FIG. 2



5. Claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella and Jourdain as applied to claim 1 above, and further in view of Smith. DE 2329016 to Droszella and Jourdain discloses a modular cabinet having all of the elements stated previously. DE 2329016 to Droszella and Jourdain do not expressly disclose a modular cabinet further comprising frictional means integrally formed on the exterior surface of the base of each end unit for minimizing slipping between vertically stacked cabinet assemblies; wherein the frictional means comprises first and second pairs of outwardly projecting and diagonally opposed engaging segments, in each said pair the engaging segments are positioned at an angle to each other, said first set of engaging segments being disposed peripherally inward with respect to said second set of engaging segments, in a stacked cabinet arrangement the first pair of engaging segments disposed on an upper housing end unit of a lower one of said stacked cabinet assemblies frictionally engages the second pair of engaging segments disposed on an inverted lower housing end unit of an upper one of said stacked cabinet assemblies, and vice versa. Smith

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teaches a cabinet assembly (Figs. 1-4) having frictional means (9,10, 11, 12, 13) formed on the exterior surface of the bases (5, 6) of end units for minimizing slipping between vertically stacked cabinet assemblies; wherein the frictional means comprises first and second pairs of outwardly projecting and diagonally opposed engaging segments, in each of the pair the engaging segments are positioned at an angle to each other, the first set of engaging segments being disposed peripherally inward with respect to the second set of engaging segments, in a stacked cabinet arrangement the first pair of engaging segment disposed on the upper housing end of a lower one of the stacked cabinet assemblies frictionally engages the second pair of engaging segments disposed on an inverted lower housing end unit of an upper one of the stacked cabinet assemblies, and vice versa. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the frictional engagement means, as taught by Smith, modifying the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain, thus providing a means for holding the case sections in a position against movement with respect to each other, eliminating the necessity of providing clamps or similar securing means for securing the cabinet assemblies together (Smith: col. 1, lines 15-20). Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally form the frictional means, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

6. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella and Jourdain as applied to claim 1 and 7 above, and further in view of Sprague. DE 2329016 to Droszella and Jourdain discloses a modular cabinet having all of the elements stated

previously. DE 2329016 to Droszella and Jourdain do not expressly disclose a modular cabinet wherein the base of each of the housing end units further comprise integrally formed planar shelf supporting portions extending substantially perpendicularly from the interior surface thereof for supporting a shelf when the assembly is supported on a surface in a horizontal orientation. Sprague teaches a shelf support (Figs. 1-4) having planar shelf supporting portions (9, 11) extending substantially perpendicular from a base surface (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ planar shelf supporting portions on the base of the end units of the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain, as taught by Sprague, thus providing additional shelf supporting capability of the modular cabinet. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to orient the modular cabinet disclosed by DE 2329016 to Droszella, Jourdain and Sprague in a vertical, horizontal, or any desired orientation so desired.

7. Claims 5 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella and Jourdain as applied to claims 1 and 4 above, and further in view of US 5,975,660 to Tisbo et al. DE 2329016 to Droszella and Jourdain discloses a modular cabinet having all of the elements stated previously. DE 2329016 to Droszella further discloses protrusions (39) having door hinge pin receiving apertures (40) formed therein positioned in the front side of the modular cabinet. DE 2329016 to Droszella and Jourdain do not expressly disclose a modular cabinet wherein the ribs have finger-receiving recesses oriented in opposite directions formed therein, one of the recesses oriented in one direction is positioned between two adjacent recesses oriented in the opposite direction and wherein the protrusions for receiving

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hinge pins positioned at opposite ends of the exterior surface of the front side of each of the end units. US 5,975,660 to Tisbo et al. teach a modular cabinet (Figs. 1-26) having finger-receiving recesses (99) formed on the door (28) and side panels (14) and protrusions (46) positioned at opposite ends of the front side of end units (12, 24), the protrusions having apertures for receiving hinge pins (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protrusions of the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain, relocating them to opposite ends of the front sides of the end units, as well as adding finger recesses to the ribs, as taught by Tisbo et al., thus providing an alternative hinging means and a cabinet having strengthened corners to prevent sagging of the cabinet (US 5,975,660 to Tisbo et al.: col. 2, lines 22-25) as well as finger recesses to provide additional structural stability of the modular cabinet (US 5,975,660 to Tisbo et al.: col. 2, lines 22-25). Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to relocate the protrusions and associative hinge elements of the cabinet disclosed by DE 2329016 to Droszella and Jourdain, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

8. As best understood, claims 10, 11, 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella, Jourdain and US 5,975,660 to Tisbo et al., as applied to claim 9 above, and further in view of Lee et al. and O'Connor. DE 2329016 to Droszella, Jourdain and US 5,975,660 to Tisbo et al. disclose a modular cabinet having all of the elements stated previously. Droszella, Jourdain and US 5,975,660 to Tisbo et al. do not expressly disclose a modular cabinet wherein the door further comprises: a pair of integrally

formed upper and lower hinge pins sized, shaped and oriented for being received through the hinge pin receiving apertures; an interior recessed window portion defined by front, top, bottom and hinged sides; and a flange portion disposed along an unhinged side of the door, the flange portion having a pair of apertures extending therethrough and positioned on opposite sides of an integrally formed door handle portion thereof, the apertures sized and shaped for snugly receiving end unit integral protrusions therethrough; the modular cabinet further comprising gasket members interposed between the non-recessed segments of the peripheral edges of the end units and the corresponding upper edge and lower edge of the U-shaped housing module; the door having a gasket disposed on an interior surface thereof; and further comprising means for maintaining the door in a closed position; and wherein the modular cabinet assembly is adapted for having humidity controlled interior, the door further comprising at least one integrally formed contiguous wall protruding from the interior surface of the window front side. Lee et al. teach a cabinet assembly (1) (Figs. 1-11) having a door (3) comprising: a pair of upper and lower hinge pins (21) sized, shaped and oriented for being received through hinge pin receiving apertures (31); and a flange portion having a door handle (22). O'Connor discloses a cabinet assembly (Figs. 1-15) having a hinged door (102) comprising: a flange portion (112) having a pair of apertures (148, 148') extending therethrough and positioned on opposite sides of a door handle (200) portion thereof; the apertures sized and shaped for receiving protrusions (150, 154) therethrough. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the door elements taught by Lee et al. and O'Connor, modifying the modular cabinet assembly disclosed by DE 2329016 to Droszella, Jourdain and US 5,975,660 to Tisbo et al., thus providing a door that easily removed as well as locking of the door

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(O'Connor: col. 4: lines 35-49). In specific regards to claims 11 and 13, it is considered old and well known the art to provide gaskets, seals, or sealing means at various jointing aspects of components of modular cabinets to provide air-tight enclosures or humidity controlled interiors, and is considered a design choice based on the intended operational use of the modular cabinet. A similar argument is made in regards to the limitation of a window and its associative elements recited in claims 10 and 13. Providing a window to view the contents of a modular cabinet is considered well within the ordinary skill level of one in the art. Lastly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally form the door handle, the pins or any other element of the modular cabinet, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

9. As best understood, claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella and Jourdain as applied to claim 1 and 12 above, and further in view of Faust et al. DE 2329016 to Droszella and Jourdain discloses a modular cabinet having all of the elements stated previously. DE 2329016 to Droszella and Jourdain do not expressly disclose a modular cabinet wherein the connecting members have fastening means provided at the opposite ends thereof and engaging the top sides of the end units in a manner urging the end units toward one another. Faust et al. teach a modular cabinet (Figs. 1 and 2) wherein end units (A, C) and support columns (B) have passages (D<sup>2</sup>, D<sup>3</sup>, B<sup>2</sup>, B<sup>6</sup>) for receiving connecting members (F) with fastening means (F<sup>1</sup>, F<sup>2</sup>) provided at the opposite ends thereof and engaging the top sides of the end units in a manner urging the end units toward one another. It

would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the fastening means taught by Faust et al., modifying the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain, thus providing a modular cabinet that can be packed in a knockdown condition and shipped in small compass and thereafter be quickly assembled and secured together (Faust et al.: page 1, col. 1, lines 9-20). In specific regards to claim 15, it is considered old and well known the art to provide flexible members, gaskets, seals, or sealing means at various jointing aspects of components of modular cabinets to provide air-tight enclosures, and is considered a design choice based on the intended operational use of the modular cabinet.

10. As best understood, claims 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 2329016 to Droszella and Jourdain as applied to claim 1 above, and further in view of Faust et al. DE 2329016 to Droszella and Jourdain discloses a modular cabinet having all of the elements stated previously. DE 2329016 to Droszella further discloses a plurality of U-shaped housing modules provided in a stacked arrangement and a plurality of shelves (57) supported on the ledge/step portions. DE 2329016 to Droszella and Jourdain do not expressly disclose a modular cabinet wherein peripheral housing gasket members interposed between the peripheral edges of the adjacent one of the stacked modules. It is considered old and well known the art to provide gaskets, seals, or sealing means at various jointing aspects of components of modular cabinets to provide air-tight enclosures, and is considered a design choice based on the intended operational use of the modular cabinet. In specific regards to claims 17 and 18, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to orient the modular cabinet disclosed by DE 2329016 to Droszella and Jourdain in a vertical, horizontal, or any desired orientation so desired.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ettlinger, Jr. teaches a stacked arrangement having a fastener passing through apertures of each stacked unit; Albanese III teaches the use of sealing members and gaskets for sealing a cabinet in an air-tight manner; Mosebrook et al. teach a modular cabinet having U-shaped housings with fasteners at the four corners in a stacked arrangement; and Rogahn teaches a modular cabinet having a door wherein column supports are placed at four corners and inward from edges of a housing unit.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Fitzgerald whose telephone number is (703) 305-4851. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

  
MF

10/17/2003

LANNA MAI  
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